

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AARON STINCHCOMBE,

Plaintiff,

Civil Action No.
10-CV-12101

vs.

HON. MARK A. GOLDSMITH

BRIAN EVERS, et al.,

Defendants.

**ORDER (1) ACCEPTING AND ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION, (2) OVERRULING PLAINTIFF'S
OBJECTIONS, and (3) GRANTING DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT**

This matter is presently before the Court on the Report and Recommendation ("R&R") of Magistrate Judge Virginia M. Morgan, entered on January 5, 2011. The Magistrate Judge recommends that Defendants' motion for summary judgment be granted. Plaintiff has filed timely objections to the R&R. The Court reviews de novo those portions of the R&R to which a specific objection has been made. Fed. R. Civ. P. 72(b). Having done so, the Court concludes that Magistrate Judge Morgan correctly analyzed the issues presented and reached the proper result for the proper reasons.

Plaintiff, a prisoner at the Gus Harrison Correctional Facility (ARF), claims that the assignment of mentally ill and non-mentally ill patients in the same cell violates his Eighth Amendment rights under the United States Constitution. However, as the Magistrate Judge determined, Plaintiff's claim fails because, among other reasons, he has not provided evidence suggesting that he has ever shared a cell with a prisoner receiving mental health treatment while at ARF. Defendant Brian Evers, Residential Unit Manager at ARF, has submitted an affidavit in support of Defendants' motion for summary judgment stating that Plaintiff has had three cellmates during his time at ARF and that none of them were receiving

outpatient mental health treatment at the time they shared a cell with Plaintiff. Evers Aff. ¶¶ 4-5, 7. Plaintiff has not submitted any evidence contradicting this testimony. Moreover, Evers states in his affidavit that prisoners receiving outpatient mental health treatment are screened prior to their placement in the general prison population “to insure that their placement is appropriate.” *Id.* ¶ 5. Thus, even had Plaintiff established a genuine fact issue with regard to whether he was housed with a prisoner receiving mental health treatment (which he has not), Plaintiff has not shown deliberate indifference to his health and safety – a necessary element of an Eighth Amendment claim – in light of Evers’ uncontroverted testimony that prisoners receiving outpatient mental health treatment are screened prior to their placement in the general prison population. For these reasons, in addition to those stated by the Magistrate Judge,

IT IS ORDERED that the Magistrate Judge’s R&R [docket entry 14] is accepted and adopted as the findings and conclusions of the Court.

IT IS FURTHER ORDERED that Plaintiff’s objections to the R&R are overruled.

IT IS FURTHER ORDERED that Defendants’ motion for summary judgment [docket entry 8] is granted.

Dated: February 2, 2011

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on February 2, 2011.

s/Deborah J. Goltz
DEBORAH J. GOLTZ
Case Manager